

REMARKS/ARGUMENTS

Claims 1-2, 4-10, 12-15, 17, 18, 20, 23, 24 and 29-32 are pending in the application. By this paper, claims 14, 21, 24 and 30 have been amended. Reconsideration and allowance of the pending claims in light of the amendments and arguments herein are respectfully requested.

A. 35 U.S.C. §112

Claims 14, 21, and 30 were rejected under 35 U.S.C. §112. The office action states: 'the term 'substantially' is indefinite as failing to point out what is included or excluded by the claim language. Claims 14,21, and 30 have been amended to delete the term 'substantially'. Accordingly, withdrawal of the rejection under 35 U.S.C. §112 of claims 14, 21 and 30 is respectfully requested.

B. Claim Objections

Claim 24 was objected to for being dependent on a cancelled claim. Claim 24 has been amended to depend on claim 21. Accordingly, withdrawal of the objection is respectfully requested.

C. 35 U.S.C. §103

Claims 1-2, 4-10, 12-15, 17, 18, 20, 23, 24 and 29-32 stand rejected as being unpatentable over US patent number 5,796,952 to Davis, et al. ("Davis") in view of US patent number 6,606,657 to Zilberstein, et al. ("Zilberstein"). Reconsideration of these rejections is respectfully requested.

Independent Claim 1

According to the office action, combining Davis and Zilberstein will disclose all of the elements of claim 1. Applicant respectfully disagrees. Claim 1 reads in part:

a client component installed in a client device, said client component including a profile builder to generate a monitoring profile using a profile database, said client component being operative to monitor usage of said client device in accordance with the monitoring profile and to generate corresponding usage data during usage of said client device.

The cited references in Davis fail to disclose at least the feature above. For example, atcol. 4, lines 24-32 Davis refers to usage of **network** resources and not 'usage of said client device.' Fig. 3 and Col. 2, lines 12-20 also do not disclose the element above. Col. 2 lines 12-20 refer to prior art that required user interaction for a somewhat customized web page and not this element of claim 1. Col. 11, lines 59-65 reference basic information collected such as the browser type when a computer accesses a web page.

In fact, the system disclosed by Davis focuses on filling a server database (FIG. 4) with information collected from a client device. In contrast, claim 1 recites "a client component ... including a profile builder to generate a monitoring profile using a profile database...and a server component including the profile database. Davis fails to disclose such a profile building on a client component which uses a profile database of a server component. Accordingly, Davis does not disclose this element as alleged by the office action.

Other features of Claim 1 are also not disclosed by the cited references. For example, claim 1 further recites

wherein said monitoring profile includes information specifying which application programs which are not a part of the system for monitoring usage, and which features of said application programs, installed on said client device are to be monitored by said client component.

The cited passages in Davis fail to disclose the features. Davis fails to disclose 'wherein said monitoring profile includes information specifying which application programs which are not a part of the system for monitoring usage, and which features of said application programs, installed on said client device are to be monitored by said client component.' In contrast with the allegation of the office action, the abstract and figures 3-7 of Davis show no support for this. Col. 4, lines 45-53 read:

The tracking program is downloaded from a server and runs on the client to monitor various indicia such as elapsed time, mouse events, keyboard events, and

the like, in order to track the user's interaction with and use of the file or to monitor choices (such as selections or links to other resources or files) made by the user while within the file. The tracking program may also monitor the amount of data downloaded by the client. Operation of the tracking program commences after the program is downloaded and any required initialization occurs.

As stated in a previous response, Davis supports a web-based tracking program that is embedded in a file which is downloaded to a client device and used to track the user's interaction with the file (Davis, column 4, lines 38-51). This feature is unique. There is no disclosure in any of the cited references for 'application programs, which are not a part of the system for monitoring usage and which features of said application programs, installed on said client device are to be monitored by said client component.' Similarly, col. 5, lines 35-56 do not disclose these features.

The downloaded program in Davis refers to an application that is part of the usage monitoring and therefore, the latter part of the element 'which features of said application programs, installed on said client device are to be monitored by said client component' does not apply to Davis. Similarly, the limitations in the element above are not disclosed in col. 5, lines 35-56.

The office action acknowledges that Davis does not teach the following feature of claim 1:

'monitoring usage during usage of said client device, the server component constructing an in-memory model of said usage of said client while the usage continues, and the server component further storing said usage data in a relational data store.'

The office action states that Zilberstein provides the missing teaching. Applicant respectfully disagrees. The referenced passages of Zilberstein are limited to internet pages supported by the system. There is no support for monitoring the client device described in claim 1. Furthermore, Zilberstein does not construct an in-memory model of said usage of said client *while the usage continues* (emphasis added), as recited in claim 1. The cited reference in Zilberstein is limited to determining time spent on a website once the user goes to another website using the web browser (col. 2, lines 59- col. 3 line 9).

The office action acknowledges there is no disclosure in Zilberstein for monitoring while the usage continues. However, the office action states: ‘at the time the invention was made, one of ordinary skill in the art would have been motivated to monitor usage of an electronic device in real time in order to allow users access information regarding the usage instantaneously, therefore facilitating the system maintenance.’ Applicant respectfully disagrees.

There is no motivation to alter Davis or Zilberstein or any other prior art of record to form the current invention. Zilberstein is limited to determining the amount of time a user spends on internet pages downloaded from a server. In clear contrast, in the invention defined by claim 1, the recited “application executing on said client device” can be any application, including any Windows-based application, and is not limited to web pages in HTML or other types of web browser applications (see page 11, lines 24-28). Thus, while Zilberstein is limited to sending information from the user’s computer to the central server “when the user jumps to another web page,” column 2, lines 60-67, in some applications such as a Word processing program or spreadsheet, there may be no “jump[ing] to another web page.” Thus, the invention in accordance with claim 1 can monitor user interaction with non-web-based applications. This broad applicability is beyond the limited teaching or suggestion of Zilberstein and Davis. The combination of Davis and Zilberstein do not even recognize this problem, much less provide a solution. Thus, there is no motivation to alter Zilberstein to provide all of the elements of claim 1. For the foregoing reasons, the rejection of claim 1 should be withdrawn.

Independent Claim 9

Claim 9 stands rejected as being unpatentable over Davis in view of Zilberstein. According to the office action, “claim 9 is similar to claim 1 except there are a plurality of client components installed on a plurality of client computers....” It is respectfully submitted that claims 1 and 9 are independent claims and are independent from each other and do not stand or fall together. The patentability of each of claims 1 and 9 must be separately considered.

Moreover, it is respectfully submitted that claim 9 includes features missing from the cited references. For example, claim 9 recites “a profile builder to generate a

monitoring profile using a profile database.” Davis and Zilberstein, taken alone or in combination, fail to disclose such a profile database which may be used to generate a monitoring profile at a client component. Accordingly, the cited references fail to disclose all limitations of claim 9. Applicant respectfully requests withdrawal of the rejection for the same reasons stated for claim 1.

Independent Claim 14

Claim 14 stands rejected as being unpatentable over Davis in view of Zilberstein. It is respectfully submitted that the cited references fail to disclose all limitations of claim 14. Many of the same arguments provided in response to the rejection of claim 1 above can be applied here. By this paper, the last element of claim 14 has been amended to read

constructing an in-memory model of said usage of said client computer while usage continues, and storing said usage data in a relational data store for processing to produce usage reports substantially close to real-time usage with said usage.

The office action mailed May 22, 2006 does not address this element as it was objected to under U.S.C. §112. Applicant has clarified the language. It is submitted that the quoted features of claim 14 are not disclosed in the prior art of record. Accordingly, applicant respectfully requests withdrawal of the objection and allowance of claim 14.

Independent Claim 21

The cited references fail to disclose all limitations of claim 21. The arguments for allowance are similar to those stated in claims 1 and 14. Applicant respectfully requests withdrawal of the objections and allowance of claim 14.

Independent Claim 30

The cited references fail to disclose all of the limitations of claim 30. The arguments for allowance are similar to those expressed in claims 1, 14, and 21. Furthermore, claim 30 has additional elements that provide support for secure protocol. The examiner acknowledges that Davis and Zilberstein do not disclose ‘determining if

secure protocol is used for communication between the client device and the remote location; if secure protocol is used, adjusting the collection agent to use secure protocol, otherwise using unsecure protocol; using either secure protocol or unsecure protocol as appropriate, transmitting, from a monitoring location, said monitoring profile to said collection agent.’ The cited reference reads:

Another possible solution is to employ standard cryptographic methods to keep self-authenticating records of interactions on the WWW secure. This could be accomplished using existing extensions to the WWW protocols, such as secure hypertext transfer protocol (S-HTTP) and secure socket layer (SSL) protocol. Secure HTTP is an extension of HTTP providing security service for transaction authenticity, integrity and non-reputability of origin. the SSL protocol is a security protocol for the Internet that mandates server’s authentication, allows optional client authentication, and provides services for private communications between clients and servers. The problem with these methods, however, is that they require authentication of all clients. Every client must register to obtain authentication keys. Not only is this a heavy administrative burden, but it leads to solutions that threaten the client’s privacy.

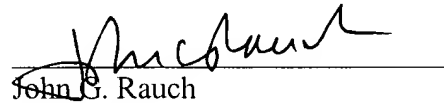
The above reference does not disclose any of the above pieces of claim 31. For example, the reference does not support determining if secure protocol is used’ and ‘if secure protocol is used, adjusting the collection agent to use secure protocol, otherwise using unsecure protocol.’ The above reference merely states that one can ‘employ standard cryptographic methods to keep self-authenticating records of interactions on the WWW secure.’ Furthermore, the reference is limited to the WWW and does not include the wide range of applications such as Microsoft Word, Adobe tools, etc., that can be monitored in the present invention of claim 30.

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CONCLUSION

With this response, the application is believed to be in condition for allowance. Should the examiner deem a telephone conference to be of assistance in advancing the application to allowance, the examiner is invited to call the undersigned attorney at the telephone number below.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "John G. Rauch", is written over a horizontal line.

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